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NORFOLK & WESTERN RAILWAY Co. v. WADE.—Decided at Richmond, December 3, 1903.—*Harrison, J.* Absent, *Buchanan, J.*:

1. CONTINUANCE. A motion for a continuance is always addressed to the sound discretion of the court, and, while its action is the subject of review, it will not be reversed unless plainly erroneous.

2. MASTER AND SERVANT—*Safe machinery—Inspection.* It is the personal duty of a master to use ordinary care and diligence to provide for his servants sound and safe machinery and appliances, and such as are reasonably calculated to insure his safety, and to inspect and examine them from time to time and to use ordinary care and skill to discover and repair defects. If, therefore, the master knows, or would have known, if he had used ordinary care to ascertain the facts, that the machinery or appliances which he has provided for his servant are defective and unsafe, and the servant is injured thereby, the master is liable.

3. MASTER AND SERVANT—*Safe machinery—Inspection—Latent defects—Verdicts—Evidence to support.* Where the injury to a servant is caused by a latent defect in machinery provided by the master, but there is evidence tending to show that the machinery had been taken to pieces by the master's servant for the purpose of repairing other portions thereof and that the defect complained of must then have been disclosed, but was not remedied, the liability of the master is a question of fact to be determined by the jury under proper instruments from the court and their verdict will not be disturbed unless plainly contrary to the evidence.

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JENNINGS & OTHERS v. TAYLOR & OTHERS.—Decided at Richmond, December 9, 1903.—*Cardwell, J.* Absent, *Buchanan, J.*:

1. COUNTY WARRANTS—*Act of limitations—Fund to indemnify sureties.* The right of the holder of a county warrant drawn on funds in the hands of a county treasurer, and duly registered, to assert his claim against a fund created by the treasurer for the indemnity of his sureties is never barred as to the treasurer, and as to the sureties is not barred until ten years from the time the right of action thereon accrues.

2. SUBROGATION—*Fund to indemnify sureties—Rights of creditors.* A deed made by a county treasurer to indemnify and save harmless the sureties on his official bond enures to the benefit of creditors of such treasurer existing at the time the deed was made and for whose debts the sureties were bound.

3. COUNTY WARRANTS—*Equitable assignments—Act of limitations.* A county warrant issued against funds in the hands of a county treasurer, and duly registered, operates *pro tanto* as an equitable assignment of so much of the funds in the hands of the treasurer as is necessary to meet their payment; and the treasurer and his sureties, having notice of the assignment by reason of the registration of the warrants, are liable to the holders thereof. Upon this liability there is no limitation as to the treasurer, and as to the sureties the limitation is ten years from the time the right of action accrues.